

Minutes of the August 9, 2005  
Regular Meeting of the  
Marshall County Board of Zoning Appeals  
Second Floor Commissioner's Meeting Room, #203  
Marshall County Building  
112 West Jefferson Street  
Plymouth, IN 46563

## MINUTES

Chairman Foster Davenport called to order the August 9, 2005, meeting of the Marshall County Board of Zoning Appeals at 7:30 p.m. Present were Board Members Foster Davenport, Gary Davis, Don Ecker, Robert Flora, Harold Van Vactor, Zoning Administrator, Ralph Booker, Secretary, Leesa Kolter and interested parties.

The first item of business was the review of the minutes of the July 12, 2005 meeting. Mr. Flora moved and Mr. Van Vactor seconded a motion to approve the minutes as written. The motion passed by acclamation.

Mr. Ecker moved and Mr. Flora seconded a motion to approve the minutes of the Joint Session of the Board of Zoning Appeals and the Plan Commission on July 21, 2005. The motion passed by acclamation.

The second item of business, case 05-BZA-25, John & Julie Chamberlin, A request for a Variance of Development Standard to reduce the North & South side yard setback from five feet (5') to six feet (6') and to reduce the Lake side setback from forty-five feet (45') to twenty feet (20') in order to construct a new dwelling on property located at 10561 Quince Road, Pretty Lake, in an L-1, Lake Residential District, Section 11 of West Township. Mr. Chamberlin was present to represent the request. Mr. Booker reviewed the details and presented the Findings of Fact. He stated that the new home would have a similar footprint as the current home.

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Mr. Davenport asked if the property had been surveyed. Mr. Chamberlin stated that the South side had been surveyed. There were some pole stakes by the road. Mr. Chamberlin stated that the new structure would not impede upon the neighbors view. He stated that he had written ok from neighbors on both sides. Mr. Ecker asked if the home was only twenty foot from the lake currently? Mr. Chamberlin stated that the existing structure was twenty feet from the waters edge, the deck went onto the seawall and was twelve feet.

Mr. Booker read a letter in favor of the request from Dave and Karen Gehrke; and a letter of concern from Marilyn & Lori Panak.

Mr. Ecker asked if the side setback would be from the eave or the footprint of the home. Mr. Chamberlin stated that it would be from the eave. Mr. Flora asked if he was sure they had established a correct property line? Mr. Chamberlin stated that he was sure that they had a correct line on the South side as it had recently been surveyed. He stated that the lane had been surveyed and there were pins. Mr. Chamberlin stated that he did not see a discrepancy from his legal description and the placement of the pins.

Mr. Davenport moved and Mr. Van Vactor seconded a motion to open the public hearing. The motion passed by acclamation. There was no one to speak either for or against the request. Mr. Ecker moved and Mr. Flora seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Chamberlin stated that he received a phone call from his neighbors the Kralavanski's that they were in favor of the request. Mr. Flora asked if they would be using the same footprint. Mr. Chamberlin stated that was correct and it would not impede the neighbors view. Mr. Davenport asked if they intended to replace the decking? Mr. Chamberlin stated that they would tear down the deck and place footers for the new decking to rest on. Mr. Flora asked if the decking would obstruct the neighbors view. Mr. Chamberlin stated that it would not. Mr. Flora stated that if Mr. Chamberlin was going to build a porch he would need a variance for it as well. Mr. Chamberlin stated that it would still be a deck, they were making it more sound with footings underneath.

Mr. Flora moved and Mr. Ecker seconded a motion to approve the request. The motion passed with a unanimous vote of approval.

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The third item of business, case 05-BZA-26, Blas & Lisa Flores, A request for a Variance of Development Standard to increase the area of a Workshop from thirty six hundred square feet (3,600) to four thousand eight hundred twenty four square feet (4,824) for Woodworking Business on property located at 580 Juniper Road, in an A-1, Agricultural District, Section 19 of German Township. Mr. & Mrs. Flores were present to represent the request. Mr. Booker gave the details of the request and presented the Findings of Fact. He stated Mr. Flores had a current woodworking business that he would like to expand. He proposed a 20' addition in the rear and a 20' lean-to addition to the side. The lean-to would house storage for vehicles and a boat. All setbacks would be met. In addition to the expansion Mr. Flores proposed adding employees to the approval. Mr. Booker stated that the board members had received a petition signed in favor of the request.

Mr. Ecker asked how long ago the building was built. Mr. Flores stated it was built about four years ago. Mrs. Flores stated that they came before the board last year for a request to expand the building. Mr. Flores stated that he has found that he had problems staining with all the dust in the building. He stated that he would like to expand the building to accommodate staining and chopping at the same time. He stated that he would also like to purchase additional machinery to make his operation more efficient. Mr. Davenport asked if he had received permission for employees the last time he came before them. Mr. Flores stated that he had not requested employees previously.

Mr. Ecker stated that as far as he was concerned they would not approve further expansions in the future. Mr. Flores stated that he would not be able to expand any further, he would need to move to accommodate anymore enlargement. Mr. Flora stated that he might need to move into an industrial area for his protection.

Mr. Flora moved and Mr. Davenport seconded a motion to open the public hearing. The motion passed by acclamation.

- Dennis Thorton, 590 Juniper Road, spoke in favor of the request. He stated that Mr. Flores would not be able to expand any further. There would be sufficient parking.

Mr. Ecker read a portion of the minutes, January 13, 2004, Mrs. Flores stated that they did not have any plans to enlarge in the future. Mr. Flores stated that this would be the last request; they knew what the limitations were.

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There was no one to speak either for or against the request. Mr. Davenport moved and Mr. Ecker seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Davenport moved and Mr. Davis seconded a motion to approve the request with the condition that there be no more than two employees. The motion passed by a unanimous vote of approval.

The fourth item of business was, case 05-BZA-27, Bruce Pursch, A request for a Variance of Development Standard to reduce the South front yard setback from fifty feet (50') to thirty one feet (31') in order to construct a home addition on property on property located at 20710 11 A Road, in an A-1, Agricultural District, Section 18 of West Township. Mrs. Pursch was present to represent the request. Mr. Booker gave the details of the request and presented the Findings of Fact. He stated that currently there was a home on the property with a thirty foot setback. There was construction being done on the property, remodeling, replacing a porch and changing the pitch of the roof. Mr. Pursch had an approved building permit for the construction.

Mr. Davenport asked if there would be any changes to the cement block wall near the road. Mrs. Pursch stated that there used to be lilac bushes covering the wall. When they were removed they found the wall needed to be straightened.

Mr. Ecker moved and Mr. Flora seconded a motion to open the public hearing. The motion passed by acclamation.

- Angie DeVault, 20745 11 A Road, spoke in favor of the request.

There was no one else to speak either for or against the request. Mr. Ecker moved and Mr. Davenport seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Ecker moved and Mr. Flora seconded a motion to approve the request. The motion passed by acclamation.

The fifth item of business was case, 05-BZA-28, C. William Crow, A request for a Variance of Development Standard to reduce the Lake side setback from forty-five feet (45') to forty feet (40') in order to construct a second story deck addition on property located at 14263 Lawrence Lake Drive, Lawrence Lake, in an L-1, Lake District, Section 19 of Center Township. Mr. & Mrs. Crow were present to represent the request. Mr.

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Booker gave the details of the request and presented the Findings of Fact. He stated the applicant would like to extend the second story deck to cover an existing patio.

Mr. Flora asked if the deck extension would obstruct the neighbors view. Mr. Crow stated that he did not think that it would. He stated that it would open. Mr. Ecker asked if notices were sent to the neighbors. Mr. Booker stated that there were seventeen letters sent and no responses were received. Mr. Flora asked if the empty lot next door was big enough to be built on. Mr. Crow stated that it would take a specially designed house.

Discussion was held regarding a previous variance Mr. Crow was granted to build his home.

Mr. Van Vactor moved and Mr. Davis seconded a motion to open the public hearing. The motion passed by acclamation. There was no one to speak either for or against the request. Mr. Flora moved and Mr. Ecker seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Flora moved and Mr. Van Vactor seconded a motion to approve the request. The motion passed by a unanimous vote of approval.

The sixth item of business was case, 05-BZA-29, Ervin Miller, A request for a Variance of Use to permit a Workshop; Welding and Woodworking on property located on B Road, in an A-1, Agricultural District, Section 20 of German Township. Mr. Miller was present to represent the request. Mr. Booker gave the details of the request and presented the Findings of Fact. He stated that Mr. Miller would like to build a 50' x 100' building on what was a vacant farm field; for a workshop to house welding and woodworking operations, bathroom and showroom. A home has been planned for the site in the future. Mr. Miller currently lived down the road from the site. The property also housed his existing welding shop.

Mr. Miller stated that he lived down the road and did have a welding shop on the property. He stated that he needed a bigger shop. He wished to stay in the area as his neighbors were his customers. He stated that his brother wanted to start a woodworking business and would be joining him in the building. Mr. Davenport asked if they were to approve the business, how would they advertise it? Mr. Miller stated that he had a small sign on his property to advertise for deliveries. He stated that they did not have any plans for off site signs. Mr. Van Vactor asked when they

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would plan to build the home on the property. Mr. Miller stated that they did not have specific plans for a home.

Mr. Ecker asked if they had permission for the current business. Mr. Miller stated that it had started out as a hobby and has grown. He stated that he had a full time job and the welding was his part time occupation. Mr. Flora asked about a showroom, would there be a lot of retail business. Did they have adequate parking? Mr. Miller stated that they would have customers on the property and had space designated for parking on their site plan. Mr. Davenport asked if they had plans for employees? Mr. Miller stated that they did not have intention for any employees.

Mr. Ecker asked if there were plans for a septic for the workshop. Mr. Miller stated that they had been advised to get approval for the workshop before they pursued approval for the septic. Mr. Flora asked how many employees they currently had? Mr. Miller stated that they did not have any employees. Mr. Miller stated that they would relocate to a commercial site if they grew large enough. Mr. Delbert Miller, brother, joined the discussion. He stated that he would like to have one or two employees in that size of building for the woodworking side.

Mr. Davenport asked if they would have a petition to separate the woodworking from the welding to avoid the possibility of fire? Mr. Miller stated that there would be a petition in the center that would be for fire protection.

Mr. Ecker moved and Mr. Van Vactor seconded a motion to open the public hearing. The motion passed by acclamation. There was no one to speak either for or against the request. Mr. Ecker moved and Mr. Flora seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Booker read correspondence he had received from, Randal & Susie Hochstetler, 2026 B Road, stating that they were in favor of the request, but it would be in their best interest if diesel or any power unit were no louder then 55 to 60 decibels for the exhaust system at 20 feet.

Mr. Miller stated that the Hochstetler's lived around the corner. Mr. Flora asked if Mr. Miller knew why the noise would be of concern? Mr. Miller stated that he had talked to Mr. Hochstetler and he had expressed concern about the diesel engine running into the night.

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Mr. Ecker asked what type of equipment Mr. Miller worked on in the welding shop. Mr. Miller stated that he did not do any mechanic work. Mr. Ecker asked if Mr. Miller would have a diesel engine to supply power to the building. Mr. Miller stated that they would.

Discussion was held regarding the provision of a Variance of Use. Mr. Flora stated that if a variance were to be approved, it would stay with the property. Mr. Booker stated that provisions could be placed with any approval. Mr. Ecker stated that they have required that such provisions be recorded in the deed for the parcel preventing further development. Mr. Miller stated that he would be willing to do that.

Mr. Ecker moved and Mr. Davis seconded a motion to approve the request with the condition that a notation be recorded in the deed that only welding and woodworking had been approved for the site. The motion passed with a unanimous vote of approval.

The last item of business was the violation report. Mr. Booker stated that he did not have a violation report to present since he had only been on the job for two days. He stated that he would be meeting with Mr. Kiefer and Ken Lukenbill to discuss the current status of the violation.

There was a gentlemen in the audience to address the board. Mr. Charles Eck, 15378 Menominee Drive, stated that he would like to address the board concerning the activity at Alligator Aggregate. He stated that the Board of Zoning Appeals approved a request for Alligator Aggregate with condition for the approval. He asked who would enforce the conditions. Mr. Davenport stated that the Plan Director would. Mr. Ecker stated that there was a very expressive group of neighbors against the approval of the operations at Alligator Aggregate. The BZA approved the operation with a list of conditions; with the exception of hours of operation and number of employees the conditions have not been met. He stated that there was an environmental impact issue which was not being met. He stated that the Department of Environmental Management, which Mr. Schafer was required to seek out and acquire all required permits, had not been in receipt of applications from Mr. Schafer. He stated that Mr. Schafer would be responsible for permits for air, ground and water. Mr. Eck stated that he was concerned about his ground water.

Mr. Eck presented pictures to the members showing incompliance of the operation. Further discussion was held. Mr. Booker stated that he would review the minutes and report back to the BZA with an update next month.

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There being no further business, a motion was made to adjourn and seconded. The motion was passed by voice vote.

Respectfully submitted,

Robert Flora  
Secretary